

REMARKS

Claims 26-29, 31, 37 and 54 are amended herein by replacing the phrase "obtainable by" with "obtained by". Claim 27 is further amended to further clarify that the control yeast is obtained by cultivating the I-2412 strain.

Claims 26, 37 and 55 are amended by deleting the phrase relating to "bad taste or off flavors". New claims 66-68 are added as dependent upon claims 26, 37 and 55 respectively. Support for the amendment is found, for example in the paragraph bridging pages 5-6 of the original specification. No new matter is presented.

Claims 1-19, 23-24, 30 and 36 were previously canceled. Claims 20-22 and 25 are withdrawn from consideration. Claims 30, 40, 41, 43, 44 and 46 are allowed.

I. Response to Claim Rejections under 35 U.S.C. § 112, 1st Paragraph-

Enablement

A. Statement of Deposit

Claims 26, 27, 29, 32-35, 37, 39, 42, 45 and 47-65 are rejected under 35 U.S.C. § 112, 1st paragraph as allegedly being non-enabled. The Examiner requires a deposit of strains CNCM I-2412 and CNCM I-2422.

Applicants respectfully submit that a Statement of Availability was previously submitted for each of strains CNCM I-2421, CNCM I-2412 and CNCM I-2422 on September 3, 2003. A copy of the date-stamped receipt indicating receipt thereof in the U.S. Patent and Trademark Office on September 3, 2003, is submitted herewith as evidence along with a copy of each of the Statements of Availability for CNCM I-2421, CNCM I-2422 and CNCM I-2422.

Accordingly, Applicants respectfully request withdrawal of the rejection.

B. "Obtainable by"

Claims 26- 29, 31, 32, 34, 35, 37, 47-51 and 53 are rejected under 35 U.S.C. § 112, 1st paragraph, as allegedly being non-enabled for a baker's yeast composition having the specifically identified functional properties "obtainable by" cultivation of any other yeast strains.

II. Response to Claim Rejections under 35 U.S.C. § 112, 1st Paragraph – Written Description

Claims 26-29, 31, 32, 34, 35, 37, 47-51 and 53 are rejected under 35 U.S.C. § 112, 1st paragraph, as containing subject matter that was not described in the specification in such a way as to reasonably convey to one of ordinary skill in the art that Applicants had possession of the invention at the time the application was filed.

The relevant claims are amended herein by replacing the phrase "obtainable by" with "obtained by", thereby obviating the rejection.

Accordingly, Applicants respectfully request withdrawal of the rejection.

III. Response to Claim Rejections – 35 U.S.C. § 112, 2nd Paragraph

Claims 26-29, 31, 32, 34, 35, 37, 47-53 and 55-65 are rejected as allegedly being indefinite.

Claims 26-29, 31, 32, 34, 35, 37, 47-51 and 53 are rejected because of the recitation "obtainable by".

The relevant claims are amended herein by replacing the phrase "obtainable by" with "obtained by" as suggested by the Examiner, thereby rendering this grounds for rejection moot.

Claims 27, 47, 48, 56, 60 and 61 are rejected because of the recitation of the phrase, "wherein said gas release results . . . obtained by a cultivation process for manufacturing said control yeast, by cultivating a strain deposited under the number I-2412 (CNCM I-2412).

Claims 27 is amended herein to recite that the control yeast is obtained by cultivating the I-2412 strain as suggested by the Examiner, thereby rendering this grounds for rejection moot.

Claims 26, 27, 32, 34, 35, 47-53 and 55-65 are rejected because of the recitation of the phrase "bad taste and off-flavors". This phrase has been deleted from claims 26, 37 and 55, thereby rendering the rejection moot. As the rejection may be applied to new claims 66-68, Applicants respectfully submit that it is disclosed in the present specification that the "bad taste or off-flavors", which are determined by a jury, are caused by the decomposition of cinnamic acid, and can be confirmed by objective analysis as determined by the presence of cinnamic acid and/or the presence of styrene in a solution fermented in the presence of cinnamic acid. See the original specification on page 5, line 29 to page 6, line 2. Further, on page 6, lines 3-18 of the original specification, methods of detecting cinnamic acid and styrene using chromatographic methods are described. Further, it is disclosed in the original specification that the property of not giving rise to "bad taste or off-flavors" is essential for a baker's yeast product and must be verified in any bread making process wherein a baker's yeast product is intended to be used. Page 2, lines 1-3. Thus, these tests are standard in the industry. Those of ordinary skill in the art are familiar with the practices and procedure for determining whether such "bad taste and off-flavors" exists and it is well within the level of skill of the ordinary artisan.

In the course of the process according to the claimed invention, yeast strains may be created that lead to an abnormal or off taste in bread and the corresponding yeast strain is discarded. This occurrence of abnormal or bad taste and off-flavors in bread is due to the production by the yeast affected of one or more secondary metabolites in the bread dough. In this case, as disclosed in the specification, bad taste or off-flavors in the presence of cinnamon are caused by the decomposition of cinnamic acid.

A taste or smell is "bad", "abnormal" or "off" if consumers, as a collective entity, would consider the taste or smell to be abnormal, i.e., alien to the taste or smell of the same type of bread when produced with an industrial baker's yeast strain. Likewise, the person skilled in the art knows the smell and taste profiles of bread types and is able to detect an abnormal or off taste in a bread product, which is alien to the type of bread product.

Further, tests are disclosed for determining the existence of "bad taste and off-flavors" which consist of comparison of the odor of a solution fermented without cinnamic acid with that of a solution fermented in the presence of cinnamic acid. It is disclosed that this test of comparison of odors is based on the notes given by a jury. It is further disclosed that these notes can be confirmed by analysis of the decomposition rate of cinnamic acid by the determination of the cinnamic acid still present at the end of the test and/or by the determination of styrene present in the solution fermented in the presence of cinnamic acid, which can be determined by chromatographic methods known to those of ordinary skill in the art as described. See page 5, line 27 to page 6, line 18. Thus, when properly read in light of the specification, one of ordinary skill in the art would be apprised of the meaning and scope of these terms and the claimed invention.

IV. Allowed Claims

Claims 38, 40, 41, 43, 44 and 46 are allowed.

V. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

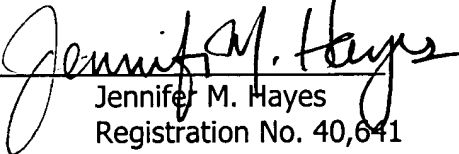
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